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EXAMINER				
LYNCH, PATRICK D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,641

Applicant(s)

STUECKLE, GERD

Examiner

PATRICK LYNCH

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9, 12, 13 and 15-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9, 12, 13 and 15-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This is a Final Office Action in response to communications filed August 07, 2008. Claims 9, 15, and 17 have been amended and claims 10, 11, 14, 20, and 21 have been cancelled. Therefore, claims 9, 12, 13, and 16-19 are currently pending and addressed below.

Response to Amendment

2. The examiner appreciates Applicant's amendments to the specification and claims to correct minor informalities and further ensure the clarity of the claim language. Applicant's cancellation of claim 14 is sufficient to overcome the objection to the claim set forth in the previous Office Action.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the arrangement of the blocking element where it remains in its blocking position and moves to a non blocking position only in the event of a seat height adjustment must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be

removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 9, 12, 13, and 15-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cantin et al. (FR 2,780,689).
7. Regarding claim 9, Cantin et al. discloses a motor vehicle seat (Fig. 1) comprising:
 - a. A first part (3) and a second part (4);
 - b. At least one crash element (13) disposed between said first and second parts of the motor vehicle seat (Fig. 2 shows the crash element spanning between the first part 3 and the second part 4), and that at least impedes movement of the

first part relative to the second part upon a collision (From the English abstract off of the espacenet database it is clear that the locking device 23 locks movement of the moveable frame 20 relative to the fixed frame 14. Since the moveable frame is attached to the first part 3 and the fixed frame is attached to the second frame 4, it is clear that the crash element 13 at least impedes movement of the first part relative to the second part.);

- c. Wherein the crash element (13) comprises a piston(20)-cylinder(14) unit, having a piston (20) and a cylinder (14);
- d. Wherein the piston (20) has toothing (27) thereon and is connected to the first part of the motor vehicle seat (by bolt 12);
- e. Wherein the cylinder (14) is connected to the second part of the motor vehicle seat (by bolt 19);
- f. Wherein an opening is provided in a cylinder wall of the cylinder (Fig. 3 shows that element 24 is sandwiched between the components 14 which together make up the cylinder, thus the gap where element 24 is placed is considered the opening in the cylinder wall.), so that a toothed blocking element (24) of a blocking device is movable through said opening (the toothed blocking element clearly moves through the opening defined above) to engage in a blocking manner with a toothing (27) formed on the piston (20) in the event of a collision;
- g. Wherein the cylinder is rotatably mounted on the motor vehicle seat via a mounting point formed on the cylinder (The cylinder is rotatably mounted on the seat via bolt 19 through flange 15); and

- h. Wherein the mounting point of the piston on the first part of the motor vehicle seat is at the same time a mounting point for a belt buckle (Looking at Fig. 2 and Fig. 3, it is clear that the belt buckle 11 is mounted to the first part of the seat at the same point as the piston 20 via bolt 12).
8. It is not explicitly clear from the drawings, in lieu of an English translation, that the motor vehicle seat comprises a seat height adjustment device configured to adjust a first part of the motor vehicle seat relative to the second part of the motor vehicle seat. It appears, however, that a seat height adjustment device is inherent since the entire purpose of such a piston-cylinder arrangement is to allow the seat belt anchor to adapt to adjustments in the position of the upper portion of the seat frame. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a seat height adjustment device in the vehicle seat of Cantin et al., since the examiner takes Official Notice that such devices are commonly known in the art of motor vehicle seats and the use of such a device would allow the vehicle seat to be adjusted to the optimum seating position which may vary according to the size of the occupant.
9. Regarding claim 12, Cantin et al. discloses that the blocking device is arranged outside of the cylinder (The cylinder portion may be considered, under the broadest reasonable interpretation, to be the portion directly surrounding the piston 20. As shown by Fig. 3, the part of element 14 where the blocking device 24 is attached is indented; indicating that this portion is merely a flange existing outside of what may

be considered the cylinder. Thus the blocking device 24 is considered to be arranged on the outside of the cylinder.).

10. Regarding claim 13, Cantin et al. discloses that the blocking element is actuated mechanically, pyrotechnically, electrically or electromagnetically (As shown in the figures, a mechanical actuation of the blocking element may be used. Page 7, line 29 to page 8, line 2 also explains that the blocking element may be pyrotechnically actuated.).
11. Regarding claim 15, Cantin et al. discloses that the blocking element is permanently remains in its blocking position and moves to a non-blocking position only in the event on a seat height adjustment (It is clear that upon deceleration the weighted cam 28 falls forward to push the locking element 24 into engagement with the teeth. When this occurs, the locking element 24 remains in its locking position under the bias of spring 32, until it is reset for adjustment of the seat height. Page 9, lines 20-27 discuss the operation of the blocking device.).
12. Regarding claim 16, Cantin et al. discloses a locking element (28) that is triggerable to fix the blocking element in its blocking position (Page 9, lines 20-27 discloses that under the appropriate deceleration, the element 28 rotates forward and is held in position by the spring 32. As element 28 moves forward, the teeth of the blocking element 24 cooperate with the teeth 27 of the piston 20. Thus the locking element 28 fixes the blocking element 24 in its blocking position.).
13. Regarding claim 17, Cantin et al. discloses a height adjustment device (The device of Cantin et al. is operable to adjust the height of at least the seat belt) for a motor

vehicle seat (Fig. 1) having a first part (3) and a second part (4), the height adjustment device comprising:

- a. At least one crash element (13) disposed between said first and second parts of the motor vehicle seat (Fig. 2 shows the crash element spanning between the first part 3 and the second part 4), and that at least impedes movement of the first part relative to the second part in the upon a collision (From the English abstract off of the espacenet database it is clear that the locking device 23 locks movement of the moveable frame 20 relative to the fixed frame 14. Since the moveable frame is attached to the first part 3 and the fixed frame is attached to the second frame 4, it is clear that the crash element 13 at least impedes movement of the first part relative to the second part.);
- b. Wherein the crash element (13) comprises a piston(20)-cylinder(14) unit, having a piston (20) and a cylinder (14);
- c. Wherein the piston (20) has tothing (27) thereon and is connected to the first part of the motor vehicle seat (by bolt 12);
- d. Wherein the cylinder (14) is connected to the second part of the motor vehicle seat (by bolt 19);
- e. Wherein an opening is provided in a cylinder wall of the cylinder (Fig. 3 shows that element 24 is sandwiched between the components 14 which together make up the cylinder, thus the gap where element 24 is placed is considered the opening in the cylinder wall.), so that a toothed blocking element (24) of a blocking device is movable through said opening (the toothed blocking element

clearly moves through the opening defined above) to engage in a blocking manner with said toothing (27) formed on the piston (20), in the event of a collision.

- f. Wherein the cylinder is rotatably mounted on the motor vehicle seat via a mounting point formed on the cylinder (The cylinder is rotatably mounted on the seat via bolt 19 through flange 15); and
 - g. Wherein the mounting point of the piston on the first part of the motor vehicle seat is at the same time a mounting point for a belt buckle (Looking at Fig. 2 and Fig. 3, it is clear that the belt buckle 11 is mounted to the first part of the seat at the same point as the piston 20 via bolt 12).
14. It is not explicitly clear from the drawings, in lieu of an English translation, that the motor vehicle seat comprises a seat height adjustment device configured to adjust a first part of the motor vehicle seat relative to the second part of the motor vehicle seat. It appears, however, that a seat height adjustment device is inherent since the entire purpose of such a piston-cylinder arrangement is to allow the seat belt anchor to adapt to adjustments in the position of the upper portion of the seat frame. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a seat height adjustment device in the vehicle seat of Cantin et al., since the examiner takes Official Notice that such devices are commonly known in the art of motor vehicle seats and the use of such a device would allow the vehicle seat to be adjusted to the optimum seating position which may vary according to the size of the occupant.

15. Regarding claim 18, Cantin et al. discloses the claimed invention except that the first part is mountable to the cushion while the second part is mountable to the floor of the vehicle instead of vice versa. However, one may consider the first part to be element 4 (mounted to the floor) and the second part to be element 3 (mounted to the cushion). In this case, the piston-cylinder unit would be attached such that the piston is connected to the second part and the cylinder is connected to the first part (a reversal of what applicant claims in claim 17). It would have been obvious to one having ordinary skill in the art at the time the invention was made, however, to reverse the piston cylinder arrangement such that the cylinder is attached to element 3, now considered the second part, and the piston is attached to element 4 since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.
16. Regarding claim 19, Cantin discloses that the second part is mountable to a floor of the vehicle (As shown in Fig. 1 the entire seat is mounted to the floor 5 of the vehicle, thus the second part, which is the lowest point of the seat must be mounted to the floor 5 as well.), and the first part is mountable to a cushion of the vehicle seat (Figs. 1 and 2 shows that the first part 3 is the part upon which the cushion is attached).
17. Regarding claim 20, Cantin et al discloses that a mounting point of the second vehicle part also forms a mounting point for a vehicle seat belt (As Fig. 2 shows, the seat belt is mounted to the second vehicle part 3. The point where this mounting occurs may be considered a mounting point of the second vehicle part.).

Response to Arguments

18. Applicant's arguments with respect to the Hansel et al. reference have been considered but are moot in view of the new ground(s) of rejection. Furthermore, the new grounds of rejection were necessitated by Applicant's amendments.
19. Applicant further argues that the examiner has mischaracterized the movable frame 20 and the fixed frame 14 of Cantin et al as a piston and cylinder arrangement. However, under a reasonably broad interpretation one may consider the two frames of Cantin et al. as a piston and cylinder. Piston-cylinder arrangements are often considered any two telescopically arranged, relatively movable parts with the piston being the part received within the encompassing cylinder. Even elements which do not have a strictly cylindrical shape (i.e. a tube of circular cross section) may be considered a piston and cylinder. This fact is evidenced, for example, by US 6,561,936 wherein elongated elements having both an oval and a rectangular cross section (213,313; see Figs. 4 and 5) are still labeled cylinders despite their lack of strictly cylindrical shape (Col. 4, lines 35-39).
20. Furthermore, the gap between the two plates 15 and 16 of Cantin et al. may be considered an opening within the cylindrical wall under the broadest reasonable interpretation. The two plates, 15 and 16, otherwise form an enclosure around the piston rod which may be considered the cylinder. The gap on one side of the cylinder may therefore be considered an opening.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
22. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **PATRICK LYNCH** whose telephone number is (571)270-3736. The examiner can normally be reached on **Monday-Friday, 8:30-5:00**.
24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Dunn/
Supervisory Patent Examiner
Art Unit 3636

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Examiner, Art Unit 3636
12/04/2008